



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF DECEMBER 11, 2003**

CALL TO ORDER: Chairperson Cohen called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Cohen, Commissioners Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski

ABSENT: None

STAFF PRESENT: Jeff Schwob, Interim Planning Director
Larissa Seto, Senior Deputy City Attorney
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Walter Garcia, Video Technician

APPROVAL OF MINUTES: Regular Minutes of November 20, 2003, were approved as submitted.

ELECTION OF OFFICERS:

Chairperson Cohen asked for nominations for Chairperson for the year 2004.

IT WAS MOVED (THOMAS/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (6-0-1-0-0) THAT THE PLANNING COMMISSION ELECT VICE CHAIRPERSON WEAVER AS CHAIRPERSON FOR THE YEAR 2004.

The motion carried by the following vote:

AYES:	6 – Cohen, Harrison, Natarajan, Sharma, Thomas, Wieckowski
NOES:	0
ABSTAIN:	1 – Weaver
ABSENT:	0
RECUSE:	0

IT WAS MOVED (HARRISON/NATARAJAN) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION ELECT COMMISSIONER WIECKOWSKI AS VICE-CHAIRPERSON FOR THE YEAR 2004.

Vice Chairperson Weaver announced that she would not attend the January 22nd meeting.

Chairperson Cohen opined that the meetings moved faster when chaired by those who were most vocal.

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 2 AND 3.

IT WAS MOVED (HARRISON/WEAVER) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 2 AND 3.

- Item 2. **SABERCAT SHOPPING CENTER – Sabercat Road - (PLN2003-00303)** - to consider a Planned District Minor Amendment to P-2000-5 to allow modifications to setbacks, designs, and materials of the previously approved development in the Mission San Jose Planning Area. The Negative Declaration adopted by City Council continues to be adequate for the proposed minor revisions.

PER THE APPLICANT’S REQUEST, CONTINUE TO A DATE UNCERTAIN.

- Item 3. **BAYSIDE BUSINESS PARK DEVELOPMENT AGREEMENT (KING & LYONS) – Dixon Landing Road/I-880 – (PLN2004-00071)** – to consider a City Manager’s report on an annual review of the Development Agreement for property generally located in the Industrial Planning Area. None of the conditions of the CEQA Guidelines Section 15162 requiring additional environmental documentation exists; the action is covered by EIR 89-56.

HOLD PUBLIC HEARING;

AND

FIND THE ANNUAL REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT A PROJECT AS DEFINED IN CEQA GUIDELINES SECTION 15168 AND THAT NO FURTHER ENVIRONMENTAL DOCUMENT IS NEEDED FOR THIS REVIEW;

AND

FIND ON THE BASIS OF SUBSTANTIAL EVIDENCE THAT THE PROPERTY OWNER HAS COMPLIED IN GOOD FAITH WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT FOR THE PERIOD UNDER REVIEW.

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 1. **CONVENIENCE STORE ADDITION – 43250 Grimmer Boulevard – (PLN2003-00206)** – to consider a Planned District Minor Amendment to allow a 700 square foot addition to the existing gas station facility (proposed total convenience store 2,450 square feet) in the Irvington Planning Area. A Mitigated Negative Declaration has been prepared for this project.

Interim Planning Director Schwob noted that a letter had been distributed to the Commissioners from the adjacent homeowners association, along with a copy to the project architect.

Chairperson Cohen stated that he had a card from Mr. Archer and asked him if he wished a full hearing for this item. He asked the City Attorney if the letter could be entered into the record.

Senior Deputy City Attorney Seto replied that the letter could be entered into the record without being read verbatim.

Commissioner Natarajan asked if the issues raised in the letter would be taken care of during the DO process.

Interim Planning Director Schwob answered that the letter requested some modifications, such as, an extension to the top of the wall. Staff could encourage that modification, but it would not be a part of the conditions, as currently written. He recommended that the Commissioners decide if a public hearing was appropriate.

Commissioner Wieckowski asked that this item be removed from consent.

Chairperson Cohen called the applicant forward and suggested that he comment on the letter from the homeowners association that had been received this evening.

Ahmad Mohazab, applicant's representative, responded to the comments in the association's letter as follows:

- The wall did not belong to the applicant, but was on the neighboring property. However, an iron extension would be installed on top of the existing retaining wall to deter trash from being thrown over the wall.
- Customers would be dissuaded from driving onto the private property in the adjacent development and his client would work with the neighbors.
- As Item Number 2 was an informational item, he had no comment.
- Liquor would not be sold.
- The 700 square foot addition was needed to accommodate the walk-in refrigerator, storage room, office and toilets.
- The dumpster would be located in the trash enclosure.

Mr. Mohazab promised to facilitate a meeting between the applicant and the neighborhood association. He passed out a monthly income and expense statement that showed the applicant had steadily been losing money since buying the business, which was the reason for adding the convenience store.

Commissioner Harrison asked if he would agree to an additional condition regarding increasing the height of the fence.

Mr. Mohazab agreed. He stated that the applicant had just handed him a petition in favor of the addition and gave a copy to the Commission.

Commissioner Wieckowski disclosed that he had bought gas from this station this week. He asked how a condition could be required if the applicant did not own the wall.

Interim Planning Director Schwob answered that the condition could request that the applicant work with the homeowners association and the association could then approve the construction of the extension.

Commissioner Sharma asked that the location of the trashcan be pointed out on the map. He asked if the homeowners association was unhappy with the trash enclosure location.

Mr. Mohazab pointed out the location of the trash enclosure on the site plan.

Chairperson Cohen opened the public hearing.

Rod Archer, Mayfair Park Homeowners Association President, replied that it was feared that refuse would be tossed over the dumpster and onto the adjacent property. The property owners also worried about odor during the summer. He noted that the second item in his letter had not been addressed by the applicant's representative, which was the number of gas stations/convenience stores in the immediate area.

Commissioner Sharma asked if the question had to do with the existence of the station.

Mr. Archer replied that the gas station was not being questioned, but the need for another convenience store in the general area was questioned. He worried that surrounding property values would be lowered.

Commissioner Natarajan asked if this was an existing convenience store that was being expanded.

Mr. Archer stated that he understood that the business was just selling gas, at this time.

Interim Planning Director Schwob replied that a very small area where payment was received also offered some convenience items. Some of the service bays would be converted to provide room for a larger store.

Commissioner Thomas understood that this use was not within the Planning Commission's purview as long as it was an appropriate land use within this zoning district. It was a market issue.

Commissioner Sharma asked Mr. Archer his reason for questioning approval of the convenience store.

Mr. Archer stated that he was not challenging this business but was only raising the specific issues, as stated in his letter.

Commissioner Sharma opined that the business would close, eventually, if the convenience store were not allowed, as it was obvious that the applicant was currently losing money.

Mr. Archer replied that he did not have a problem with it and asked that he be given a copy of the petition presented by the applicant, as he was unaware of it. (Mr. Mohazab gave him a copy)

Chairperson Cohen asked if Mr. Archer had made all his remarks.

Mr. Archer stated that he had no more comments.

Mr. Mohazab agreed to all the concerns stated in Mr. Archer's letter and promised to introduce his client to Mr. Archer after the hearing. He opined that this business was better for the neighborhood than an abandoned property.

Chairperson Cohen closed the public hearing.

Commissioner Wieckowski was satisfied that Condition A6 adequately addressed the trash concerns. He expected that the applicant would exert diligence with regard to the trash, so that the adjacent homeowners would consider his business an asset to the neighborhood. He did not feel that the hours of 5:00 a.m. to 11:00 p.m. were excessive, as stated in the letter. He stated that he was happy to be able to buy his gas at 5:50 a.m. at this station earlier in the week. He would support staff recommendations.

Commissioner Harrison also supported the project, along with the additional condition to work with the homeowners concerning the retaining wall, if that was what the homeowners association wished. He believed that the applicant wanted this business to be a win-win for everyone.

Commissioner Natarajan suggested a condition regarding the hours of operation, as they were not part of the current conditions.

Interim Planning Director Schwob agreed that the hours of operation had inadvertently been left out. They would be added.

Chairperson Cohen stated that a use could be denied, because the area was saturated by the same kind of use, but it had to be supported by proper findings. However, this use would be improved by this proposal. He encouraged the applicant and the neighbors to work with each other. He would support the project.

IT WAS MOVED (THOMAS/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

ADOPT A MITIGATED NEGATIVE DECLARATION AND CERTIFICATE OF FEE EXEMPTION AND FIND IT REFLECTS THE INDEPENDENT JUDGEMENT OF THE CITY OF FREMONT;

AND

APPROVE THE MITIGATION MONITORING PLAN FOR THIS PROJECT;

AND

FIND PLN2003-00206 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN LAND USE CHAPTER AND FOR THE REASONS ENUMERATED WITHIN THE STAFF REPORT;

AND

ADD A CONDITION THAT AN EXTENSION WILL BE CONSTRUCTED ON THE NEIGHBORING PROPERTY WALL; SUBJECT TO APPROVAL BY THE NEIGHBORING PROPERTY OWNERS ASSOCIATION AND THE CITY;

AND

ADD A CONDITION TO REFLECT OPERATING HOURS OF 5:00 A.M. TO 11:00 P.M.;

AND

APPROVE PLN2003-00206, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
- Information from Commission: Commission members may report on matters of interest.

Vice Chairperson Weaver thanked staff for preparing the Resolutions of Appreciation and Commendation for Commissioner Thomas and Chairperson Cohen and proceeded to read them aloud. She stated that it had been “wonderful to serve with both of you on the Planning Commission and I’m going to miss you terribly over the next year.” She expressed appreciation for the help they had given her when she was new to the Commission. She acknowledged that there had been “respectful disagreement” but good decisions had come out of those disagreements, as the Commission always had the best interests of the City at heart. Dining gift certificates were given to each outgoing Commissioner.

Commissioner Thomas replied that she had spent 11 years on the Human Relations Commission before coming to the Planning Commission and believed that each person was obligated to support their city and to make the world better. She had enjoyed her years on the Commission, although projects sometimes turned out to be different from what she had expected. She would miss her membership on the Commission, but admitted that she would not miss the preparation and attendance time required for each meeting. She thanked the other Commissioners and staff, as their interest was apparent by projects throughout the City that had been approved by them.

Chairperson Cohen stated that he had thoroughly enjoyed his time on the Commission. He recalled his experience with the San Francisco Planning Commission when he was a law student and, because of that experience, he “aspired” to become a Planning Commissioner. He spoke of lessons learned and stated that he tried to stay true to his own philosophy, which was often facilitated by staff “who got it.” He stated that he distinctly recalled the first time he and Commissioner Thomas met and he stated that “the easier it was for all of us to get along, the more independent we all became and true to the purpose of our positions.” At this time, the City was at a crossroads and it was now up to the current Commission to decide which path would be taken. He also complimented staff, as nothing could be done without them, and he encouraged the Commissioners “to keep true to their ideals.”

Vice Chairperson Weaver handed the framed Resolutions and gift certificates to Chairperson Cohen and Commissioner Thomas and thanked both of them for their work.

Interim Planning Director Schwob announced that a study session would commence after this meeting. The January 8th meeting would not be held, but the annual Planning Commission dinner would be held on that date. The two new Commissioners had been invited, as well. He asked that responses be made to Maria Salinas.

Commissioner Sharma stated that he had participated in Make a Difference Day and wished to thank some of the people who had been involved, such as BFI, Tri-City Rock and McIvor Hardware Store in the Mission San Jose area. BFI had provided a dumpster at no cost, Tri-City Rock had provided landscaping materials and MacIver Hardware had provided a chainsaw for pruning trees and bushes. He also thanked the Fremont Police Youth Explorers for helping out. He announced that his charitable organization had adopted portions of four streets that entered the Mission San Jose area to keep them picked up and clean. He encouraged others to do the same as volunteers for the City.

Interim Planning Director Schwob noted that the 2004 calendar for the Planning Commission and Historical Architectural Review Board meeting dates was in the Commissioners’ packets.

Meeting adjourned at 7:50 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Jeff Schwob, Secretary
Planning Commission